

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DARRYL ANDERSON, et al.,

Plaintiffs,

v.

PERDUE FARMS INCORPORATED,

Defendant.

**Case Action No.:
1:06-CV-1000-MEF-WC
JURY TRIAL DEMANDED**

DEFENDANT’S MOTION FOR ORAL ARGUMENT

COMES NOW the Defendant Perdue Farms Incorporated, (“Defendant”) by and through its undersigned counsel, and respectfully moves this Court for oral argument on Defendant’s pending Motion for Summary Judgment, and as grounds therefore states as follows:

1. On May 16, 2008, Defendant filed its Motion for Summary Judgment in this case. (Dkt No. 78).
2. On June 11, 2008, Plaintiffs filed their Response to Defendant’s Motion for Summary Judgment (Dkt. No. 85).
3. On June 23, 2008, Plaintiffs filed a Cross-Motion for Partial Summary Judgment. (Dkt. No. 91).
4. On June 25, 2008, Defendant filed its Reply to Plaintiffs’ Response in Opposition to the Motion for Summary Judgment. (Dkt. No. 95).
5. On July 11, 2008, Defendant filed its Brief in Opposition to Plaintiffs’ Cross-Motion for Partial Summary Judgment. (Dkt. No. 108).

6. On July 18, 2008, Plaintiffs filed their Reply to the Response to their Cross-Motion for Summary Judgment. (Dkt. No. 110).

7. On August 5, 2008 Defendant informed this Court of supplemental authority from the United States District Court for the Northern District of Georgia that relates directly to the issues presented by the parties' pending cross motions for summary judgment. *See Jenkins v. Harrison Poultry, Inc.* No. 2:07-CV-0058-WCO (N.D. Ga.) (Dkt. No. 118).

8. On August 8, 2008 Plaintiffs moved for leave to file a response to Defendant's Notice of Supplemental Authority. Plaintiffs attached this Court's opinion in *Burks v. Equity Group-Eufala Division, LLC*, No. 6CV1081-MEF (Md. Ala.) (Dkt. No. 123). The *Burks* decision is factually and legally distinct from this matter which is virtually identical to the decision of the District Courts for the Middle and Northern District of Georgia in *Alford v. Perdue*, No. 5:07cv87-CAR (M.D. Ga.) and *Jenkins v. Harrison Poultry, Inc.* No. 2:07-CV-0058-WCO (N.D. Ga.).

9. Defendant seeks leave to respond to the arguments raised by Plaintiffs in response to Defendant's Motion for Summary Judgment. Defendant also seeks leave to respond to and distinguish the Supplemental Authority filed by Plaintiffs. Because these cases involve poultry plants that employ individuals in first- and second-processing, Defendant believes it is important for the Court to hear the practices that distinguish Perdue from these cases and their holdings.

Dated: August 13, 2008

/s/

James J. Kelley (D.C. Bar No. 194746)*

202-739-5095

jkelly@morganlewis.com

Lexer I. Quamie (D.C. Bar No. 502908)*

202-739-5955

lquamie@morganlewis.com

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, NW

Washington, D.C. 20004

202-739-3001 (fax)

Sandra B. Reiss (Alabama Bar No. ASB-3650-S80S)

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

One Federal Place, Suite 1000

1819 5th Avenue North

Birmingham, AL 35203

205-328-1900

205-328-6000 (fax)

sandra.reiss@odnss.com

Counsel for Defendant, Perdue Farms Incorporated

* *James J. Kelley and Lexer Quamie have been admitted to this Court pro hac vice.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August 2008, I caused a copy of the foregoing Defendant's Motion for Oral Argument to be served via electronic mail upon:

Robert J. Camp
rcamp@cochranfirm.com

Joseph Allen Schreiber
allen@sppclaw.com

Lance Harrison Swanner
lswanner@cochranfirm.com

Richard Bernard Celler
richard@cellerlegal.com

Samuel Alex Cherry, Jr.
scherry@cochranfirm.com

Bernard Dobbie Nomberg
bnomberg@cochranfirm.com

/s/ Lexer I. Quamie

Lexer I. Quamie (admitted pro hac vice)
D.C. Bar No. 502908
202-739-5955
lquamie@morganlewis.com
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004
202-739-3001 (fax)

Counsel for Defendant, Perdue Farms Incorporated